

The Honorable Robert H. Whaley

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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUL 20 2000

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROBERT E. WHITE, et al.,
Plaintiffs,
v.
DR. C. ALVIN PAULSEN, et al.,
Defendants.

DON BYERS, et al.,
Plaintiffs,
v.
C. ALVIN PAULSEN, M.D., et al.,
Defendants.

No. CS 97-0239 RHW

PLAINTIFFS' SUPPLEMENTAL
SUBMISSION REGARDING:

- (1) STATUS REPORT
REGARDING SETTLEMENT
ADMINISTRATION;
- (2) MOTION TO APPROVE OR
REJECT CERTAIN CLAIMS; AND
- (3) MOTION FOR FINAL AWARD
OF ATTORNEYS' FEES AND
COSTS

Hearing Date: July 26, 2000; 10:00 a.m.

Pending are two motions requesting that the Court (i) reject or approve certain claims submitted, and (ii) approve class counsel's settlement administration fee and cost reimbursement request. The following is provided concerning the motion regarding rejection or approval of certain claims.

The only claimant not previously approved who has submitted anything is Mr. Taté. Class counsel endeavored to address the Tatés' potential claim in a fair and

PLAINTIFFS' SUPPLEMENTAL SUBMISSION - 1

ORIGINAL

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1 impartial manner. The Tatés' submission reflects their sentiment that they have not
2 been so treated. That is unfortunate. Class counsel went to significant lengths to
3 collect, consider and then to present to the Court additional information bearing upon
4 the Tatés' claim. First, class counsel traveled to the McNeil Island Penitentiary and
5 met at the prison with them for 1.8 hours. A memorandum summarizing that meeting
6 was prepared and has been previously provided to the Court. Second, the Tatés
7 indicated they thought that another prisoner, Briggs, could vouch for Mr. Taté's
8 participation. Class counsel contacted Briggs but he was unable to support that Mr.
9 Taté had in fact been a radiated participant in the experiments.¹ Third, when the Tatés
10 requested a copy of the consensual tape recording made of their interview, it was
11 provided to them. Then, when the Tatés requested a transcript of the interview, class
12 counsel incurred the expense of having the tape transcribed and a transcript was
13 provided to them. Fourth, the same criteria utilized to evaluate all claims were utilized
14 concerning the Taté claim. If the individual was not on the Department of Corrections
15 list, and if Dr. Paulsen's records indicated that the individual had not been radiated, the
16 claim was not approved.

17 That Mr. Taté underwent a biopsy (and this is reflected in his medical records)
18 is not probative regarding whether he was a radiated experiment subject. Several
19 dozen or more Walla Walla inmates who participated underwent biopsies but were not
20 radiated experiment subjects. Only the claims of radiated experiment subjects were
21 settled and only radiated experiment subjects (and their children) are class members.

22 _____
23 ¹At first, Briggs indicated to class counsel that he did not even recall Mr. Taté. After the
24 Tatés then contacted him, Briggs indicated that he did recall Mr. Taté. Briggs did not, however,
25 provide any information concerning whether Mr. Taté had participated in the experiments, or more
26 important, whether Mr. Taté had been a radiated participant. See attachments.

1 Lastly, the identity of "RV #12" is not unknown. Although this radiated
2 experiment subject was listed anonymously on the initial Department of Correction
3 list, further investigation and effort by counsel for the Department and Dr. Paulsen's
4 counsel led to that individual being identified. Neither Mr. Taté nor any of the other
5 persons whose claims have not been approved is RV #12.

6 Attached are copies of all correspondence between the Tatés and class counsel
7 since the moving papers were filed. There have been no communications to or from
8 the other unapproved claimants other than a telephone call from an attorney who
9 indicated he had been contacted by Mr. Riggins and made some general inquiries.

10 DATED this 18th day of July, 2000.

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19 By 

20 Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July/8, 2000, a copy of the foregoing pleading was served upon the following individuals via U.S. Mail:

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ATTACHMENTS
NOT
SCANNED